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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC, Debtors.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
THOMAS C. BARRY TO APPEAR  
FOR EXAMINATION PURSUANT  
TO FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Thomas C. Barry ("Barry") to appear, as set forth in a subpoena to be issued under Federal Rule of Bankruptcy Procedure 9016, for examination at the office of Lewis and Roca LLP, 3993

1 Howard Hughes Parkway, Suite 600, Las Vegas, Nevada 89169, on a business day no  
2 earlier than ten (10) business days after the filing of this Motion and no later than  
3 November 30, 2007 (or at such other mutually agreeable location, date, and time) and  
4 continuing from day to day thereafter until completed.  
5

6 This Motion is further explained in the following Memorandum.

7 **Memorandum**

8 The Movant seeks information concerning transactions and other dealings between  
9 Barry and USACM, the other debtors in the above-captioned cases (together with  
10 USACM, the “Debtors”), and the Debtors’ insiders, affiliates, subsidiaries, parents, or  
11 otherwise related entities. The Movant seeks this information to assist in the collection of  
12 the assets and the investigation of the liabilities of the Debtors.  
13  
14

15 The requested discovery from Barry is well within the scope of examination  
16 permitted under Bankruptcy Rule 2004, which includes:

17 [t]he acts, conduct, or property or . . . the liabilities and financial condition  
18 of the debtor, or . . . any matter which may affect the administration of the  
19 debtor’s estate, or to the debtor’s right to a discharge. In a . . .  
20 reorganization case under chapter 11 of the Code, . . . the examination may  
21 also relate to the operation of any business and the desirability of its  
22 continuance, the source of any money or property acquired or to be acquired  
23 by the debtor for purposes of consummating a plan and the consideration  
24 given or offered therefore, and any other matter relevant to the case or to the  
25 formulation of a plan.<sup>1</sup>  
26

23 **Conclusion**

24 Accordingly, the Movant requests that this Court enter the form of order submitted  
25 with this Motion.  
26

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<sup>1</sup> FED.R. BANKR. P. 2004(b).

1 Dated: October 12, 2007.

2 **DIAMOND MCCARTHY LLP**

3 **LEWIS AND ROCA LLP**

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